

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

THE EDUCATED CIGAR, LLC,

Plaintiff,

v.

NO. CV-07-5057-RHW

**ORDER DISMISSING  
COMPLAINT, WITHOUT  
PREJUDICE**

DAVID WIEST, JACQUELINE M.  
DANYO, DAVID DRESSEL,  
CINDI HOLMSTROM, RANDI  
JOHNSON, REX MUNGER,  
RALPH OSGOOD, WILLIAM N.  
RICE, and STUART THRONSON,  
in their official capacities as  
members of the Washington State  
Department of Revenue; GEORGIA  
A. GARDNER, TERRY SEBRING,  
and SHIRLEY J. WINSLEY, in their  
official capacities as members of the  
Washington State Board of Tax  
Appeals; ROB MCKENNA and  
CAMERON G. COMFORT, in their  
official capacities within the  
Washington State Attorney  
General's Office; CHRISTINE O.  
GREGOIRE, in her official capacity  
as Governor of Washington State  
(and former Washington State  
Attorney General); JOHN DOE and  
JANE DOE, in their official capacity  
as members of the Washington State  
Legislature

Defendants.

Before the Court is Defendant State Officials' Motion to Dismiss (Ct. Rec.  
7). The motion was heard without oral argument.

The State Defendants assert a number of arguments in support of their

1 motion to dismiss. The Court will address only one of them, namely, whether the  
2 complaint should be dismissed because Plaintiff, a Washington limited liability  
3 corporation, is not represented in the action by a licensed attorney.

4 Case law is clear. Artificial entities, whether as a corporation or a limited  
5 liability corporation, may appear in federal court only through licensed counsel.  
6 *Rowland v. Calif. Men's Colony*, 506 U.S. 194, 202-203 (1993); *United States v.*  
7 *High Country Broadcasting Co., Inc.*, 3 F.3d 1244 (9<sup>th</sup> Cir. 1993).

8 Here, the Complaint was signed by Charles C. Diettrich and Rick Ornstein,  
9 on behalf of Plaintiff The Educated Cigar, LLC. In response to the State  
10 Defendants' motion, neither of these persons indicated that they are a licensed  
11 member of the Washington State bar. Rather, they attempted to distinguish  
12 *Rowland* and also argued that The Educated Cigar, LLC, is not a corporation or  
13 company. These arguments are without merit. As such, the Complaint filed by  
14 Charles C. Diettrich and Rick Ornstein must be dismissed.

15 Accordingly, **IT IS HEREBY ORDERED:**

16 1. Defendant State Officials' Motion to Dismiss (Ct. Rec. 7) is  
17 **GRANTED.**

18 2. The above-captioned case is **dismissed**, without prejudice.

19 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
20 Order, forward copies to the parties, and **close the file.**

21 **DATED** this 29<sup>th</sup> day of November, 2007.

22 *s/ Robert H. Whaley*

23 ROBERT H. WHALEY  
24 Chief United States District Judge

25 Q:\CIVIL\2007\Educated Cigar\dismiss.complaint.wpd  
26  
27  
28